



FOURTH JUDICIAL TRAINING ON CLIMATE JUSTICE IN UGANDA

HELD ON 13TH AND 14TH APRIL 2022

THEME:

**Strengthening the Judiciary's adjudicative
role in administering climate justice.**

RAPPORTEUR'S REPORT

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Millions of people today are already suffering from the catastrophic effects of extreme disasters exacerbated by climate change.

While we largely understand climate change through the impacts it will have on our natural world, it is the devastation that it is causing and will continue to cause for humanity that makes it an urgent issue.

Greenwatch has successfully conducted three judicial trainings on climate justice in the past years, and this was its fourth Judicial Training on climate justice. It was a two-day training with a total of 5 sessions and one-panel session. Participants included judicial officers from the Court of Appeal, High Court, Registrars, and Magistrates court. This training was aimed at enhancing the knowledge of the Judicial officers to enable them to churn out well-informed judgments in matters that involve climate-related disputes.

Acknowledgments

Greenwatch owes its deepest gratitude to Environmental Law Alliance Worldwide (ELAW) for supporting the legal capacity training on climate justice.

Greenwatch would also like to appreciate its partner the Judicial Training Institute for actively participating and supporting the judicial trainings organized over the years.

In a special way, the organization appreciates all parties that attended the Fourth Judicial Training on climate justice these include, the judicial officers from the Court of Appeal, High Court, Registrars, and Magistrates.

Summary of opening remarks

The training was opened by His Worship Angualia Moses Gabriel, Deputy Registrar of the Judicial Training Institute, also the moderator of the training. He started off by welcoming the participants, the Greenwatch team, and all the representatives from different institutions present to the Fourth Judicial Training. He thanked the Judicial officers comprising judges of the High Court, Court of Appeal, Registrars, Chief Magistrates, and Magistrates for honoring the invitation. He thanked the two organizations Greenwatch and Judicial Training Institute for organizing yet another training on climate justice.

Objectives of the Training

Greenwatch's objectives for the training included;

Building the capacity of the judicial officers by equipping them with knowledge about climate change and climate justice. in order to enable them to effectively adjudicate climate-related disputes.

To enable the judicial officers to be abreast with environmental laws, particularly laws dealing with climate change thus enabling them to integrate the same in their decisions when adjudicating climate-related disputes.

To lay a foundation for climate change jurisprudence through equipping the judicial officers with knowledge on climate change and climate justice to strengthen judicial participation in climate justice, taking into account lessons from other jurisdictions.

To initiate a way forward for climate action in Uganda by drawing the judiciary's attention to climate action. Training judicial officers in this relatively new concept of climate justice will ensure that the subject matter of environmental law particularly climate justice is at the same level as other branches of the law.

To equip the judicial officers with knowledge about the current developments in regard to climate change and the ripple effects of Glasgow.

To further Greenwatch's work which meets the unique need of advancing environmental commitments and resilience in Uganda, there are different trends in environmental law, particularly in the field of climate change, and these need to be brought to the attention of the custodians of justice. which will in the end lead to transformational change by increasing the capacity of Uganda's judicial officers to adjudicate climate-related disputes.

Summary of welcome remarks.

Samantha Atukunda. K. Mwesigwa the director and legal Counsel of Greenwatch in her welcome remarks, highlighted the role of Greenwatch and its mandate in promoting environmental advocacy.

She mentioned that one of the ways Greenwatch achieves its vision is by ensuring the judiciary has sufficient knowledge of environmental law and principles and how they can apply this knowledge in their day-to-day decision-making.

She explained that the overall objective of the training was to enhance the knowledge of Judicial officers about climate change which has become a worldwide challenge, therefore, requiring the attention of all stakeholders including government institutions and private companies.

She concluded by appreciating the present parties for honoring the invite and recognizing Environment Law Alliance Network for funding the training.

His Worship Angualia Moses Gabriel who stood in for **Hon. Justice Damalie N. Lwanga** the Executive Director of the **Judicial Training Institute** and **Justice of the High Court** welcomed the participants on behalf of the Judicial Training Institute. In his welcoming remarks, he urged the participants to take it upon themselves to resolve the impacts of climate change in their own unique ways. He called upon them to dispense climate justice in affected communities even though the concept of climate justice is relatively new in Uganda. He said, "It is important that this concept is better appreciated by the Judiciary hence attending trainings like the Fourth Judicial Training on climate justice organized by Greenwatch and Judicial Training Institute".



Figure 1: His Worship Angualia Moses Gabriel giving his welcome remarks

Summary of opening remarks

Hon. Justice Christopher Gashirabeke, Justice of the Court of Appeal officially opened the training on behalf of **Hon. Justice Kenneth Kakuru, Justice of the Court of Appeal** who was unable to make it to the training.

In his speech, he commended the organization for being at the forefront of climate justice in Uganda and additionally thanked all participants and attendants for sparing their time to attend the Fourth Judicial Training on climate justice.

He mentioned that Uganda is set to reduce greenhouse gas emissions by 22% by 2030. On that note, he urged the judicial officers to ensure that such targets are met by the government. In attending such trainings, by taking the knowledge that they attain to help make a difference in Uganda and essentially the world over in matters to do with climate change.

He implored all of the participants to be cautious and awake to the matters that were discussed at the training.



Figure 2: Justice Christopher Gashirabake giving his opening remarks

Summary of the sessions presented at the Fourth Judicial Training

Day one presentations

The Use of Law as a Tool to Upload Climate Change Obligations – A case study of Kenya presented by **Ms. Emily Kinama** from **Katiba Institute** in **Nairobi Kenya**.

Ms. Kinama observed that climate change is arguably the most significant current global environmental challenge and explained how the Environmental Management Coordination Act of Kenya (EMCA) plays a very significant role in climate justice management. “Article 22 of the Kenyan constitution allows anyone with grievances regarding the violation of the constitution to report their issues to the high court of Kenya”, She said.

She elaborated further on articles 42 and 70 on environmental rights that explain the right to a clean and healthy environment. From these provisions a Kenyan citizen doesn't need evidence or scientific data when dealing with environmental issues because every citizen has the right to protect the environment, therefore there can be enforcement of environmental rights if there's any violation of these rights or threats.

She also mentioned that the most recent (Fifth Assessment) of the Inter-governmental Panel on Climate Change, infrastructure developments, and long-lived products that lock societies into greenhouse gas (GHG) emission pathways may be difficult or very costly to change, reinforcing the importance of early action for ambitious mitigation.

Ms. Kinama explained how social media can be used as a tool in unmasking environmental injustices, especially during the COVID-19 breakout the online program helped Kenyans unmask the challenges affecting the environment and they were able to find solutions to these problems.

She concluded by mentioning how the amendment of crucial laws and the disobedience of the laws have become challenges Kenya faces in regard to environmental management and therefore appreciated trainings like the fourth judicial training on climate justice that provide information to help legal officers like herself find solutions to these challenges, she also encouraged academics that specialize in the environment areas to write submissions and go-ahead to present to different institutions in the environment sector on how to find solutions to these issues.

Plenary discussion

The participants expressed their gratitude towards Ms. Kinama's presentation and appreciated the importance of getting a different understanding of how other neighboring countries manage climate cases. In particular, **Her Worship Zulaika Nanteza**, Chief Magistrate Iganga mentioned how she is a member of an organization based in the U.K called “Climate Council” whose major focus is to advocate for climate justice as an international crime

against humanity. She made emphasis on the fact that if an individual destroys the environment, he/she is destroying the humanity system hence making it a crime.



Figure 3: HW Nanteza Zulaika, Chief Magistrate Iganga sharing her opinion on climate justice

The Evolution of Climate Change Legislation

The Evolution of Climate Change Legislation presented by Dr. Patrick Byakagaba, Lecturer School of Forestry, Environmental and Geographical Sciences, at Makerere University at the Department of Environmental Management.

According to Dr. Byakagaba, global debates on climate change began in the 1950s into the '70s, and finally in the '80s. There was growing evidence from scientists in that period that greenhouse gas emissions (GHG) concentration was increasing thus causing a rise in global temperature and changes to the climate. In October 1985, the Vienna Convention for the Protection of the Ozone Layer was signed whose aim was to reduce the production of Chlorofluorocarbons and prevent “dangerous” human interference with the climate system.

“The Convention set an ultimate objective of “stabilization of GHGs concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system” he explained.

He explained that climate legislation is informed and justified by notions of environmental ethics, human rights, and intergenerational equity. The environmental ethics notion is based on the understanding that human beings have a personal moral obligation to reduce GHG emissions because personal reductions can make a contribution if there is an obligation to address climate change and the human rights notion based on understanding the threat posed by climate change to “old rights” such as rights to life, health, and subsistence.

He stressed that the legislation offers a means to adapt law deliberately to changing circumstances and negotiate the range of issues and disagreements in climate change thus closing the gap between policy ambition and policy delivery of climate cases.

Climate Justice and Gender

The last presentation of the day was on Climate Justice and Gender presented by Dr. Catherine Mulinde a Lecturer at the Department of Geography, Geo-informatics, and Climatic Sciences at Makerere University.

Dr. Mulinde explained how elderly people are particularly prone to heat stress and how warm and wet climates favor mosquitoes that spread diseases, women have to shoulder extra responsibilities due to climate change, therefore women are either directly or indirectly affected by each of the processes.

She elaborated deeper on how the impacts of global warming have been well-documented and how the precise extent is visible but difficult to predict. She listed the impacts of climate change that include; hail storms, heat

stress, drought, economic problems, health impacts, mudslides, etc.

She then elaborated on how climate change affects gender in Uganda. She explained to the participants that through reproduction, a mother has to take on the responsibility of taking care and nurturing her child hence this is done by the production process where the mother will have to find means of providing for her child and this whole cycle can be influenced by climate change.

She made emphasis on officials of the Judiciary giving climate change more attention because it affects human life in every aspect of life. "According to different scholars and scientists, they will be a lack of no rain across the East African region in the near future and the annual temperature in Uganda is likely to increase to 1.5 degrees Celsius," she said.

Yet again, "what is the implication of the increase in this temperature on the stability of the crops that Ugandans grow and cultivate" She posed.



Figure 4: Dr. Catherine Mulinde presenting on climate justice and gender

His Worship Alule Augustine Koma, Magistrate Law Development Center court thanked Dr. Mulinde for her informative presentation however he observed that the impact of climate on gender also highly depends on the education level and knowledge of the citizens of the country, he stressed that women residing in urban areas of the country are more aware of the impact of climate change as opposed to women in the rural communities because they lack educative knowledge on climate change, he then advised organizations to carry out trainings and educate the ladies in the rural centers on the impacts of climate change on gender.



Figure 5: His Worship Alule Augustine Koma, magistrate LDC

His Worship Angualia stressed his concerns about the development and preservation of culture in regard to climate change, he referred to the recent video clip that circulated on social media about a traditional tree in Mpigi district that the locals didn't want to be cut to construct a road unless the government would pay for the damages equating to 500 million Uganda shillings.

He raised his concern and posed a question about what consideration should be taken into account when similar cases of this kind are before a court”?

DAY TWO PRESENTATIONS

A Climate Justice Perspective by Mr. Robert Bakiika, Deputy Director Environmental Management for Livelihood Improvement.

Mr. Bakiika started off by giving his perspective on climate change impacts, “extreme weather and climate-related events for example an increasing temperature and generating impacts affecting the most vulnerable women, men and children” Bakiika stated. These impacts may include economic losses such as property, assets, and non-economic losses induced by human mobility.

He stated that governments are obligated to honor the ‘duty of care for climate change’, therefore the rule of law should proactively serve as a mechanism to seek climate justice by recognizing and empowering climate-vulnerable communities and people, promoting transformative climate action, and integrating gender-transformative approaches, preventing conflicts and resolving climate-related disputes and strengthening sustainability approaches.

In his conclusion, he stated that without an effective response to climate change, including both timely mitigation and proactive adaptation, development can be neither sustainable nor equitable. However, politically acceptable and effective national climate response strategies foster substantial techno-economic, institutional, and lifestyle shifts needed to reduce emissions and enable adaptive responses. Therefore, an equitable regime with fair burden-sharing is likely to be a key condition for an effective global response.



Figure 6: Robert Bakiika making his presentation

Panel Session

The panel discussion was moderated by **Ms. Isabella Akiteng** a managing partner at the Forum for Women Democracy under the theme “**Climate Justice: Understanding the Implication of the National Development Plan III**”.

Ms. Akiteng opened the session by introducing the panelist which comprised members of civil society, government, and academic institutions Mr. Robert Bakiika a Deputy Director of Environmental Management for Livelihood Improvement (EMLI), Ms. Tatu Nakanjako a Senior Legal Officer at National Planning Authority (NPA), and Dr. Peter Mutesasiira a Dean at the Faculty of Law, Uganda Christian University.



Figure 7: Panelists: Isabella Akiteng, Tatu Nakanjako, Robert Bakiika, Peter Mutesasiira and Samantha Atukunda K. Mwesigwa.

Ms. Tatu Nakanjako from the **National Planning Authority** started off the discussion with a brief background of the National Planning Authority (NPA).

She briefly explained how NPA's mandate is to produce comprehensive and integrated development plans for the entire country. She mentioned that the duplication of laws within the government is at a high percentage because many institutions carry out the same work thus it becomes an issue in the planning structure of the country according to the NDP II assessment report.

However, this opened doors for the program based approach to development planning under the NDP III, which covers the government as a whole block thus making it easier for the institutions under government to come up with a uniform approach to solve a particular issue, for example, if the Judiciary wants to solve a climate change issue they will work for hand in hand with other institutions within the subject matter these include, Ministry of Water and Environment, National Environment Management Authority and National Forest Authority, She said.

Ms. Nakanjako explained that the National Planning Authority has dedicated a program on climate change called the "Climate Change Environment and Natural Resource Program" which is meant to solve the issues of climate change in Uganda.

She also mentioned one of the key reforms that are necessary for the Judiciary is establishing environment courts within the judicial system because of the excessive amount of environmental cases taken before courts hence leading to the continuous delay of judgments of these cases.

She emphasized the fact that the NDP 3 program states that every institution handling climate issues in the country should have a structured budget explaining the finances.

Ms. Nakanjako concluded by stating that the NDP 3 has over 20 programs and NDA has taken the program-based approach which they believe is able to help government bodies work together with other government institutions to ensure proper planning and no wastage of resources.



Figure 8: Tatu Nakanjako, Senior Legal Officer, National Planning Authority

Dr. Peter Mutesasira one of the panelists from the **Faculty of Law at Uganda Christian University**, was asked by the moderator to share the incidences he has encountered with climate injustice in Uganda.

Dr. Peter responded by saying that the legal professionals should assist the Judicial officers with content that can be simplified using non – scientific terms in order to handle climate cases before the court.

He explained that the major injustice caused by climate change is the violation of human rights because climate change leads to loss of lives, loss of property, conflicts, and health issues, “As developing nations we pollute less but suffer the most burden” Dr. Mutesasira explained.

“What is your experience as a researcher on the implementation of the principles under NDP III that are related to climate change?”, Ms. Akiteng posed a question to Mr. Robert Bakiika, one of the panelists.

Mr. Bakiika responded by mentioning that climate change issues have their challenges according to the NDP III which include improper planning and budget set up however he commended the National Planning Authority for initiating a number of programs under NDP III which includes the Climate Change Environment and Natural Resource program and if implemented strategically, climate change will easily have solutions in the near future in Uganda.

Ms. Akiteng inquired about what can be done for the communities in the rural centers of the country that don’t fully understand the context of climate justice?

In response to Ms. Akiteng’s question, Mr. Robert Bakiika explained that most rural communities hardly have any knowledge on how to handle climate change issues and get intimidated by the courts hence making it difficult for them to address their issues before the courts therefore he suggested that the community judicial officers build a relationship with the locals to help solve the communication hence making it easy for them to address the climate change matters before the courts of Uganda.



Figure 9: Isabella Akiteng from the Forum for Women Democracy, moderator of the panel session.

The moderator went ahead to seek clarity from the panelists on the gaps indicated within the laws of climate change and what basic practices are suggested to ensure climate justice is served in Uganda.

Dr. Peter Mutesasira responded to this by stating that the Climate Change Act within the constitution doesn't favor the Ugandan citizen or the affected persons and the "Access to Information" subsection has scientific information gotten from reports that make it complicated for an ordinary citizen to understand however he suggested that the creation of standard environment courts will shield these climate and environment matters.



Figure 10: Peter Mutesasira, Dean of the Faculty of Law Uganda Christian University.

Samantha Atunkunda, director of Greenwatch closed the panel session by encouraging everyone to play their part for a positive impact in solving climate change issues in the country.



Figure 11: Samantha Atunkunda. K. Mwesigwa the director and legal Counsel Greenwatch

The final presentation was from **Her Worship Gladys Kamasanyu, Chief Magistrate Utilities, and Wildlife Court, Buganda Road** on **"Connecting Climate Justice and Wildlife Crime"**

Her Worship made mentioned the fact that Uganda is home to various animals and has over 500 mammal species, more than half of the world's mountain gorillas, over 90 fish species, 1000 bird species, and 24% forest cover.

She explained to the participants how wildlife crimes have endangered many of the species thus it being a glob-

al lucrative with high demand estimated to be between 7 – 23 billion USD globally, though most of these crimes are unreported, and neither do the offenders get punished.

She made emphasis on the fact that those involved in wildlife trafficking often traffic in drugs engage in counterfeits, money laundering, and illegal possession of firearms. She displayed how records show that in 2019, 750 pieces of ivory and pangolin scales all worth \$8million were seized from poachers in Uganda.

She mentioned that the Judiciary as one of the key stakeholders in the enforcement of wildlife laws, protection of the environment, and in particular combating wildlife crime has the mandate to ensure that justice is done and this has been evident in Uganda through the establishment of Africa's first and only specialized wildlife court which was established to enhance the efficiency of the criminal justice system by bringing about expeditious, efficient, orderly, uniform, consistent and cost-effective adjudication of wildlife cases.

She listed the common offenses brought to court which are unlawful possession of protected species, engaging in fishing activities without a license, possession of prohibited fishing gears, and the possession of immature fish.

She stated that the wildlife subject has its own challenges which include, the general lack of awareness about wildlife crime among the masses, the lack of sentencing guidelines, the lack of specialization at the appellate level, political interferences (commonly termed as “ the big man syndrome/orders from above), corruption (both perceived and actual amongst the key players) and insecurities within the regions, however, the courts are looking at future prospective to solve the issues at hand by raising awareness of communities on wildlife crimes, increasing the amount of information sharing amongst the key players in the fight against wildlife crimes, initiating specialized high court divisions, and punishing corrupt officers.

She urged the participants to help in the conservation of wildlife because it calls for a collective effort.

“Wildlife does not speak, let's speak for it and when we speak for wildlife, we speak for humanity”, Her Worship Kamasanyu concluded.



Her Worship Gladys Kamasanyu, Chief Magistrate Utilities, and Wildlife Court, Buganda Road making her presentation.

CLOSING SESSION

The training was officially closed by **Honorable Justice, Winfred Nabisinde Senior Resident Judge, Jinja circuit** who thanked Greenwatch, the Judicial Training Institute, and the facilitators for training the participants during the two-day training.

ACRONYMS

JTI	Judicial Training Institute
COP26	Conference of Parties
EMCA	Environmental Management Coordination Act
GHG	Green House Gases
NDP	National Development Plan
NPA	National Planning Authority
LDC	Law Development Center



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